IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO.2745 OF 2005

M/s.Hyundai Heavy Ind. Co. Ltd. .. Petitioner.

V/s.

Union of India & Others .. Respondents.

Mr.A.M. Sethna with Mr.Ramarao and Mrs.Sonia Miskin for the petitioner.

Mr.B.A. Desai, Additional Solicitor General with Mr.P.S. Jetly for respondent Nos.1 and 2.

Mr.Burges Colabawala with Mr.Raju Gawde i/b. K. Ashar & Co. for respondent No.3

CORAM : H.L. GOKHALE &
J.P. DEVADHAR, JJ.

DATED : 24TH NOVEMBER, 2005.

P.C. :

1. Heard Mr.Sethna in support of this petition. Mr.Desai, Additional Solicitor General and Mr.Jetly appears for respondent Nos.1 and 2. Mr.Colabawala appears for respondent No.3.

2. The Commissioner of Customs has passed an order-in-original against the petitioner on November 9, 2005. The petitioner had given a bank guarantee drawn on respondent No.3-bank which was to secure the interest of respondent Nos.1 and 2 in the proceedings. This order has gone against the petitioner and, therefore, the respondent Nos.1 and 2

are keen on encashing the bank guarantee.

3. The bank guarantee is valid upto December 22, 2005. The petitioner has remedy to file an appeal against the impugned order before Customs, Excise and Service Tax Appellate Tribunal. They may file the same in the meanwhile, so preferably by the end of this month and apply for appropriate order on that stay application. They ought to move that application and apply for that order by December 15, 2005. In the event, they do not get the necessary order, it will be open for the respondent Nos.1 and 2 to encash the bank guarantee.

4. Needless to mention that the bank guarantee will not be encashed in the meanwhile. Both parties will inform respondent No.3 about this order.

5. Petition stands disposed of in terms of this order with no order as to costs.

6. Authenticated copy of this order be made available to the parties.

(H.L. GOKHALE, J.)

(J.P. DEVADHAR, J.)